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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,434	07/13/2001	Timothy B. Main	390059.406	3429

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EXAMINER

GARBE, STEPHEN P

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/905,434

Applicant(s)

MAIN ET AL.

Examiner

Stephen Garbe

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-12,14-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-12,14-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christoffel, Swiss Patent Number 187,705, in view of either Appel, United States Patent No. 584,659 or Onderdonk, United States Patent No. 318,016. In Figures 2 and 4, Christoffel discloses all claimed features except for side panels and except that it is unclear whether aperture 4 has a continuous perimeter. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Christoffel's bag with side panels, as taught by either Onderdonk or Appel, because side panels would have allowed the bag to expand to a larger size. It would have been further obvious to provide aperture 4 with a continuous perimeter because the bag is not torn from support 7.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, it would have been obvious to make aperture 4 circular because support 7 has a circular cross-section.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1, and further in view of Lawford, Australian published patent application number 113,542. It would have been obvious to provide Christoffel's bag with ventilation openings in the front and back panels, as taught by Lawford, because

such openings would have allowed Christoffel's bag to be used for carrying items needing ventilation.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. Furthermore, the claimed sizes would have been obvious because it is obvious to size a bag as needed for the intended contents.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. It would have been obvious to size aperture 4 as needed to support the bag from rod 7.

7. Claims 12, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christoffel, Swiss Patent Number 187,705, in view of Onderdonk, United States Patent No. 318,016. It would have been obvious to form Christoffel's bag with left and right side panels and bottom flaps in the manner taught by Onderdonk because Onderdonk's method is a convenient way of making a bag. It would have been further obvious to provide aperture 4 with a continuous perimeter because the bag is not torn from support 7.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 12. Furthermore, it would have been obvious to make aperture 4 circular because support 7 has a circular cross-section.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 12, and further in view of Lawford, Australian published patent application number 113,542. It would have been obvious to provide Christoffel's bag with ventilation openings in the front and back panels, as taught by Lawford, because

such openings would have allowed Christoffel's bag to be used for carrying items needing ventilation.

10. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.


11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

14. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.
15. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720